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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,553	03/21/2001	Masayuki Tada	0828.65333	3668

24978 7590 09/07/2007
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EXAMINER

AKINTOLA, OLABODE

ART UNIT	PAPER NUMBER
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3691

MAIL DATE	DELIVERY MODE
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09/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/813,553

Applicant(s)

TADA ET AL.

Examiner

Olabode Akintola

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/3/2007.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites “wherein said transmitter-side storage information management means and said receiver-side storage information management means each *manage* a writing start number for use in writing said data into said data storage device and a reading end number for use in reading said data from said data storage device”. The term *manage/management* is vague. It is not clear how the transmitter and the receiver both manage a writing start number and a reading end number. Managing can be interpreted as generating, updating, synchronizing, using, utilizing, storing, displaying, determining, receiving, transmitting etc.

For purpose of examination, the claim would be given its broadest reasonably interpretation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3691

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wolff (US 6009427) ("Wolff") in view of Ikeda et al (US 5822785) ("Ikeda").

Re claim 1: Wolff teaches a data linking system for linking data between a transmitter side and a receiver side, comprising: a data storage device for storing said data (Fig. 2A, RN {64,66}; col. 8, lines 10-11, at least); a transmitter-side data linking apparatus including transmitter-side storage information management means for managing storage information concerning control of storage of said data in said data storage device (Fig. 2A, RN {54} "Write Access", col. 8, line 50-col. 9, line 3; Fig. 2C, RN {96}; col. 9, lines 15-20), transmitter-side storage information interface means for transmitting and receiving said storage information for linkage with said receiver side, and data writing means for writing said data into said data storage device based on said storage information (Fig. 2C, "Physical I/O"; col. 9, line 25 to col. 10, ;line 27: col. 7, lines 6-62); and a receiver-side data linking apparatus including receiver-side storage information management means for managing said storage information concerning control of storage of said

data in said data storage device, receiver-side storage information interface means for transmitting and receiving said storage information for linkage with said transmitter side, and data reading means for reading said data from said data storage device based on said storage information (comparable citations as for transmitter side above, Wolff discloses a read function at Figs. 5A-5E and related text, at least. Per Fig 2A, Clients 54 and 56 are understood to be transmitter (write) side and receiver (read) side elements communicating with storage device 66); wherein said transmitter-side storage information management means and said receiver-side storage information management means each manage a writing start number for use in writing said data into said data storage device (col. 14, lines 48-51) and a reading end number for use in reading said data from said data storage device (col. 14, lines 48-51);

Wolff does not explicitly teach wherein said storage information is exchanged between said transmitter-side storage information interface means and said receiver-side storage information interface means, whereby the writing start number and the reading end number of said storage information under the management of said transmitter-side storage information management means and that under the management of the receiver-side storage information management means are updated to assume identical values.

Ikeda also teaches wherein said transmitter-side storage information management means and said receiver-side storage information management means each manage a writing start number for use in writing said data into said data storage device (col. 13, lines 34-48) and a reading end number for use in reading said data from said data storage device (col. 13, lines 34-48); Furthermore, Ikeda teaches wherein said storage information is exchanged between said transmitter-side storage information interface means and said receiver-side storage information interface means,

whereby the writing start number and the reading end number of said storage information under the management of said transmitter-side storage information management means and that under the management of the receiver-side storage information management means are updated to assume identical values (col. 13, lines 34-48). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wolff to include this step as taught by Ikeda. One would have been motivated to do so in order to ensure that all transfer requests are processed, thereby synchronizing of both write and read pointers.

Claim1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morimoto et al (US 5379424) ("Morimoto") in view of Ikeda et al (US 5822785) ("Ikeda").

Re claim 1: Morimoto teaches a data linking system for linking data between a transmitter side and a receiver side, comprising: a data storage device for storing said data (Fig. 1, abstract at least); a transmitter-side data linking apparatus including transmitter-side storage information management means for managing storage information concerning control of storage of said data in said data storage device (Figs. 1, 2), transmitter-side storage information interface means for transmitting and receiving said storage information for linkage with said receiver side, and data writing means for writing said data into said data storage device based on said storage information (Figs. 1, 2); and a receiver-side data linking apparatus including receiver-side storage information management means for managing said storage information concerning control of storage of said data in said data storage device, receiver-side storage information interface means for transmitting and receiving said storage information for linkage with said

Art Unit: 3691

transmitter side, and data reading means for reading said data from said data storage device based on said storage information (comparable citations as for transmitter side above, Morimoto discloses communication lines between computers; Figs. 1 and 2); wherein said transmitter-side storage information management means and said receiver-side storage information management means each manage a writing start number for use in writing said data into said data storage device (fig. 5) and a reading end number for use in reading said data from said data storage device (fig. 5);

Morimoto does not explicitly teach wherein said storage information is exchanged between said transmitter-side storage information interface means and said receiver-side storage information interface means, whereby the writing start number and the reading end number of said storage information under the management of said transmitter-side storage information management means and that under the management of the receiver-side storage information management means are updated to assume identical values.

Ikeda also teaches wherein said transmitter-side storage information management means and said receiver-side storage information management means each manage a writing start number for use in writing said data into said data storage device (col. 13, lines 34-48) and a reading end number for use in reading said data from said data storage device (col. 13, lines 34-48); Furthermore, Ikeda teaches wherein said storage information is exchanged between said transmitter-side storage information interface means and said receiver-side storage information interface means, whereby the writing start number and the reading end number of said storage information under the management of said transmitter-side storage information management means and that under the management of the receiver-side storage information management means are updated to

assume identical values (col. 13, lines 34-48). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Morimoto to include this step as taught by Ikeda. One would have been motivated to do so in order to ensure that all transfer requests are processed, thereby synchronizing of both write and read pointers.

Response to Arguments

Applicant's arguments with respect to claim have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that Wolff does not suggest that transmitter and receive both manage a writing start number and a reading end number. Examiner asserts that Wolff discloses the use of a writing start number (pointer) for use in writing data into a data storage device at Col. 14, lines 52-54. Wolff also discloses a pointer for searching at Col. 11, lines 48-51.

Furthermore, Ikeda also teaches updating write and read pointers. Also the term manage is not sufficiently precise (see 35 USC 112, second paragraph rejection above).

Applicant also argues that Wolff fails to teach direct interface between client 54 and 56.

Applicant is reminded that at Fig. 2A, both clients 54 and 56 are part of a LAN and are capable of communicating with other apparatus.

Applicant admits that Ikeda describes a transmitter and receiver but argues that Ikeda's transmitter and receiver are not analogous to the clients 54 and 56 of Wolff. It has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be

Art Unit: 3691

reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the Ikeda reference is reasonable pertinent to the problem with which the applicant was concerned, i.e. updating write and read number to assume identical values.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation is found in knowledge generally available to one of ordinary skill in the art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629.

The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA



HANI M. KAZIMI
PRIMARY EXAMINER